

## Chapter 6

### AMUSEMENTS\*

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### ARTICLE I. IN GENERAL

#### **Sec. 6-1. Box ing, spar ring and wres tling ex hi bi tions.**

No boxing, sparring or wrestling exhibition shall be conducted in the city, except under a license by the state athletic commission. All such exhibitions shall be conducted strictly in accordance with the state law and the rules and regulations of such commission. (Code 1959, § 26-1)

**State law reference**—Virginia Athletic Commission, Code of Virginia, § 54.1-800 et seq.

#### **Sec. 6-2. Cir cuses, me nager ies, etc.**

It shall be unlawful for any person to make exhibition of a circus, carnival, menagerie or show of any kind, other than shows held in a permanent building, at any place within the city, unless the location of the same shall have been first approved by the city manager. (Code 1959, § 26-2)

**Cross reference**—Location of circuses conditional, zoning ordinance, § 35.1-36E.5.

#### **Sec. 6-3. Per mit re quired for late shows.**

It shall be unlawful for any theatrical or opera troupe, the manager of any motion picture theatre, or other organization or person to show or produce any play, stage show or motion picture between the hours of 2:00 a.m. and 6:00 a.m., except upon written application to and permission granted by the city manager; or, upon appeal from a ruling of the city manager denying such permission, permission granted by the council. (Code 1959, § 26-3; Ord. No. O-89-289, § 1, 10-24-89)

#### **Sec. 6-4. Lec tures, shows, etc., on sex ual mat ters.**

No person shall, within the city, for compensation, either directly or indirectly, give any lecture, entertainment, show or performance of any kind, dealing primarily with matters of sex or sex relations, and whether using picture slides, moving pictures or illustrations in connection therewith or not, or shall sell in connection with such lectures, entertainments, etc., any books or pamphlets dealing with sex matters or sex relations, unless such lecture, entertainment, show or performance is given under the auspices of the school board of the city or some other approved organization within the city and until a permit therefor shall have

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\***Charter reference**—Authority to regulate and control public amusements, § 38(26).

**Cross references**—License fee for dance halls, § 36-54; for circuses, menageries, etc. § 36-94; for freak shows, § 36-95; for side shows, merry-go-rounds, etc., § 36-96; gross receipts tax for amusements, § 36-113.

**State law reference**—Taxation of amusement machines, Code of Virginia, § 58.1-3720

been obtained from the city manager. The manager shall have authority either to grant or refuse such permit as he may see fit. The provisions of this section shall apply to any lecture, entertainment, show or performance given in any theatre, picture house or other place of public gathering or over the radio. (Code 1959, § 26-4)

**Cross reference**—Obscenity, § 27-12.

#### **Sec. 6-5. In de cent and ob scene shows.**

It shall be unlawful for any theatrical or opera troupe, the manager of any moving picture house, or other organization or person to produce any show, opera or play, to exhibit any picture, or any other entertainment in which there is any indecent display, obscene, vulgar or licentious language, or immoral plot, or for the manager of any show, play or opera house, moving picture house, or other building under his control, to permit any such show, play, opera or moving picture as is above prohibited. Upon satisfactory evidence, the city manager may prohibit the production or exhibition of any such show, play, opera, picture or entertainment. This section shall not be construed to apply to motion pictures approved by the censors for the division of motion picture censorship in the state department of law. (Code 1959, § 26-5)

**Cross reference**—Obscenity, § 27-12.

#### **Sec. 6-6. Bond, li abil ity in sur ance re quired for amuse ment rides.**

No person shall conduct, operate, manage or sponsor any Ferris wheel, merry-go-round or other amusement ride operated for hire or for the purpose of promoting or advertising any trade or business, without first filing with the clerk of council a bond or certificate of liability insurance, in the amount of at least one hundred thousand dollars (\$100,000.00), indemnifying the public against damages sustained by reason of the operation of such ride. Such bond or certificate of insurance shall apply to all persons, whether or not a license or permit is required by any other provision of this Code, state law or city ordinance, rule or regulation.

#### **Sec. 6-7. Spe cial events.**

Whenever the provisions of this chapter require that an amusement facility be closed between the hours of 2 a.m. and 6 a.m., such restrictions shall not be construed as prohibiting an amusement facility from making its facilities available for special activities by church groups, civic organizations, and other similar groups. (Ord. No. O-92-368, 12-8-92)

#### **Secs. 6-8—6-17. Re served.**

### **ARTICLE II. BOWLING ALLEYS\***

#### **Sec. 6-18. Hours of op era tion.**

It shall be unlawful for any person to operate any bowling alley within the city or to keep such place of business open, or permit his bowling alley to be used between the hours of 2:00 a.m. and 6:00 a.m. No person shall operate a bowling alley without first obtaining a permit as required by section 6-71 of this chapter and shall comply with the provisions of sections 6-72 through 6-80 of this chapter. The provisions of this section shall apply to both the owner and operator of a bowling alley. (Code 1959, § 26-12; Ord. No. O-89-289, § 1, 10-24-89)

#### **Secs. 6-19—6-45. Re served.**

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\***Cross reference**—License fee, § 36-113.

**ARTICLE III. BILLIARD ROOMS AND POOLROOMS\*****Sec. 6-46. Definition.**

As used in this article, a billiard room is a place where there is a table at which billiards, pool or bagatelle is played, but shall not include a club or business establishment in which there are kept or operated, as an incident to the operation of the club or business establishment, not more than two (2) coin-operated tables at which billiards, pool or bagatelle is played. (Code 1959, § 26-13)

**Sec. 6-47. Hours of operation.**

It shall be unlawful for any person owning, managing, or operating a billiard room to keep open or operate the billiard room on any day between the hours of 2:00 a.m. and 6:00 a.m. It shall be unlawful for any person, except employees, to enter a billiard room during the hours in which it is closed. (Code 1959, § 26-14; Ord. No. O-89-289, § 1, 10-24-89)

**Sec. 6-48. Minors generally.**

(a) Any person owning, managing or operating a billiard room may, in his discretion, allow minors between the ages of sixteen (16) and eighteen (18) years to play or watch the play of billiards in the billiard room when:

- (1) The interior of the billiard room is lighted throughout at a level of forty (40) footcandles;
- (2) No partitions, other than those for toilet facilities, are maintained in the billiard room; and
- (3) No window in the billiard room is covered or otherwise obstructed.

The minor shall be solely responsible for establishing his or her age. It shall be unlawful for any person owning, managing or operating a billiard room to permit any minor between the ages of sixteen (16) and eighteen (18) years to enter the billiard room unless the foregoing provisions of this section are complied with.

(b) Any person owning, managing or operating a billiard room in which any alcoholic beverage is sold or consumed in the billiard room or in any other area or place accessible from the billiard room, shall not allow minors under the age of sixteen (16) years to play or watch the play of billiards in such billiard room unless the billiard room meets the same conditions and circumstances under which minors between the ages of sixteen (16) and eighteen (18) years are allowed to play or watch the play of billiards in a billiard room and unless each minor is accompanied by one (1) of his or her parents or person in loco parentis or legal guardian. The person accompanying a minor under the age of sixteen (16) years shall be solely responsible for establishing the age of the minor and the relationship of the minor to such person. It shall be unlawful for any person owning, managing or operating a billiard room to permit any minor under the age of sixteen (16) years to enter the billiard room unless the foregoing provisions of this subsection are complied with.

(c) It shall be unlawful for any person to accompany a minor under the age of sixteen (16) years in a billiard room unless such person is a parent or person in loco parentis or legal guardian of the minor. It shall be unlawful for a parent, person in loco parentis or legal guardian to permit his or her child who is under the age of sixteen (16) years to enter a billiard room unless the child is accompanied by such parent, person or guardian. It shall be unlawful for a parent, person in loco parentis or legal guardian, having accompanied his or her child in a billiard room to leave the billiard room without the child. It shall be unlawful for any minor who is under the age of sixteen (16) years to enter a billiard room without one (1) of his or her parents or the person in loco parentis of the minor or the minor's legal guardian. It shall be

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\***Charter reference**—Authority to regulate and control persons keeping billiard tables, § 38(26).

**Cross reference**—License fee, § 36-113.

unlawful for any person owning, managing or operating a billiard room to knowingly permit any person to violate the provisions of this section. (Code 1959, § 26-16; Ord. No. O-89-289, § 1, 10-24-89)

**Sec. 6-49. Minors under eight years of age.**

Except as otherwise provided in section 6-48, it shall be unlawful for any person owning, managing or operating a billiard room to allow any minor under the age of eighteen (18) years to enter the billiard room except for the transaction of business other than playing pool or billiards. It shall be unlawful for any such minor who is in a billiard room for the transaction of business to remain therein after the business has been transacted; and it shall be unlawful for the owner, manager or operator of the billiard room to allow such minor to thereafter remain in the billiard room. (Code 1959, § 26-15)

**Sec. 6-50. Required.**

No person shall operate a billiard room without first obtaining a permit as required by section 6-71 of this chapter and shall comply with the provisions of sections 6-72 through 6-80 of this chapter. (Ord. No. O-89-289, § 1, 10-24-89)

**Secs. 6-51—6-60. Reserved.**

**ARTICLE IV. COMMERCIAL RECREATION CENTERS\***

**DIVISION 1. GENERALLY**

**Sec. 6-61. Definition.**

As used in this article, a "commercial recreation center" is defined as any establishment where foosball, table tennis, shuffleboard or any other game of recreation or amusement is displayed for public patronage, where the insertion of a coin, slug or token or the payment of a fee is required and where three (3) or more such game machines are in use. There is excepted from this article and the regulations contained herein game machines operated as an incident to a club or business establishment duly licensed and regulated by the state alcoholic beverage control board; however, such club or business establishment shall obtain a permit as required by section 6-71 of this chapter and shall comply with the provisions of sections 6-72 through 6-80 of this chapter. (Ord. of 4-8-75, § 26-17; Ord. No. O-89-289, § 1, 10-24-89)

**Sec. 6-62. Penalty.**

Any person owning, managing or operating a center who shall violate any of the provisions of this article shall be deemed guilty of a Class 2 misdemeanor. (Ord. of 4-8-75, § 26-24)

**Sec. 6-63. Operating requirements.**

No center shall be operated except in compliance with the following operating requirements provided that requirements (6) and (7) shall not be required of any center operating lawfully prior to April 8, 1975:

- (1) The center shall be illuminated throughout its interior at a level of at least forty (40) footcandles.
- (2) The center shall provide separate rest room facilities for both sexes.
- (3) Deleted. (Ord. No. 0-81-033)

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\*Cross references—Minor operating coin-operated machines, § 27-24.

(4) The center shall at all times be under management and control by a person at least eighteen (18) years of age who shall be on the premises of the center at all times during the hours of operation.

(5) The center shall have no partitioned or closed off areas other than those for toilet facilities, office space and storerooms.

(6) The center shall be located on the ground level floor of the building in which it is situated; it shall also have a window or windows with a total of not less than fifty (50) square feet of glass which shall not be covered or otherwise obstructed during hours of business.

(7) The center shall provide permanently maintained off-street parking for personnel and patrons at the rate of one and one-half (1 1/2) parking spaces for each game table or machine displayed whether in use or not.

(8) The center shall be open for observation without warrant by any law enforcement official at any time during normal hours of operation.

(9) The center shall display in a conspicuous manner the permit issued and the license obtained for operation of the commercial recreation center.

Provided, however, that where the commercial recreation center is a part of, owned by and housed in a restaurant and utilizes no more than 25% twenty-five (25) per cent of the floor space of the restaurant, the provisions of subsections (5) and (6) hereof may be waived to the extent deemed appropriate by the issuer of the permit, so long as visibility of the center is sufficient for police department observation.

For the purposes of this section, a "restaurant" shall be defined as an establishment that is open to the public and where the principal use is the preparation and serving of food and beverages for on-premises consumption. (Ord. of 4-8-75, § 26-22; Ord. No. O-81-033, § 1, 2-10-81; Ord. No. O-83-069, § 1, 4-26-83; Ord. No. O-99-252, 11-9-99)

#### **Sec. 6-64. Hours of operation.**

It shall be unlawful for any person owning, managing or operating a commercial recreation center to keep open or operate a center on any day between the hours of 2:00 a.m. and 6:00 a.m. It shall be unlawful for any person, except employees, to enter the center during the hours in which it is closed. (Ord. of 4-8-75, §26-23; Ord. No. O-80-265, § 1 (26-23), 9-23-80; Ord. No. O-89-289, § 1, 10-24-89)

#### **Secs. 6-65—6-70. Reserved.**

### **DIVISION 2. PERMIT**

#### **Sec. 6-71. Required.**

No person shall operate a bowling alley, billiard room or commercial recreation center without first obtaining a permit from the city manager or his authorized designee. (Ord. of 4-8-75, § 26-18; Ord. No. O-89-289, § 1, 10-24-89)

#### **Sec. 6-72. Application.**

The application for a permit required by this division shall contain the following information:

(1) Name and address of the applicant, age, social security number, race, sex, date and place of birth and where pertinent the relationship of the applicant to any company, corporation or other entity which has interest in the ownership or management of the facility.

(2) Prior criminal convictions, excluding traffic offenses, of the applicant, if any.

(3) Prospective location of the facility.

- (4) Maximum number of patrons the facility will accommodate.
- (5) A list of all employees who are expected to serve in a managerial capacity in the facility.
- (6) A certification by the applicant that all requirements of this article have been complied with.

(7) The permit shall be valid for one year from the date issued and may be renewed in the same manner as such permit was initially obtained; however, the applicant shall not have to pay an application fee for the renewal of the permit. The applicant shall update the city manager or his designee on any changes in those employees who are expected to serve in a managerial capacity. No permit shall be transferable. (Ord. of 4-8-75, § 26-16; Ord. No. O-89-289, § 1, 10-24-89)

**Sec. 6- 73. Application fee.**

At the time of filing his application, the applicant for a permit required by the provisions of this division shall pay a fee of fifty dollars (\$50.00) which shall not be refundable. (Ord. of 4-8-75, § 26-18)

**Sec. 6- 74. Investigation.**

Upon receipt of an application for a permit required by this division, the city manager or his authorized designee shall immediately cause an investigation to be made concerning the qualifications of the applicant and whether the proposed center is in compliance with all applicable law. (Ord. of 4-8-75, § 26-19)

**Sec. 6- 75. Issuance or denial.**

The city manager or his designee shall grant or deny any permit applied for under the provisions of this division and shall notify the applicant of his action within thirty (30) days of the filing of the application. If the city manager denies such permit, he shall state in writing his reasons for such action. (Ord. of 4-8-75, § 26-19)

**Sec. 6- 76. Grounds for denial.**

The following factors shall constitute grounds for the denial of a permit required by the provisions of this division:

- (1) A finding by the city manager or his authorized designee that the applicant has falsified his application in a material manner.
- (2) A finding by the city manager or his authorized designee that the applicant or any of his designated managerial employees has a criminal record which reveals any convictions for violations of any drug control law or any other pattern of criminal misconduct involving moral turpitude.
- (3) A finding by the city manager or his authorized designee that the applicant consistently fails to cooperate with law enforcement personnel in the exercise of their official duties.
- (4) A finding by the city manager or his authorized designee that the application is not properly completed as required herein.
- (5) A finding by the city manager or his authorized designee that the proposed center fails to comply with the provisions of this article.

No other factors shall be sufficient grounds for denial of an application for a permit. (Ord. of 4-8-75, § 26-19)

**Sec. 6- 77. Assignment.**

No permit issued under this division shall be assignable in any manner whatsoever. (Ord. of 4-8-75, § 26-21)

**Sec. 6-78. Expiration.**

When the holder of a permit issued under the provisions of this division shall cease to operate the center for a period of sixty (60) days, the permit shall be void. (Ord. of 4-8-75, § 26-21)

**Sec. 6-79. Revocation or suspension.**

The city manager may revoke or suspend for a period of thirty (30) days the permit for the operation of a bowling alley, billiard room or commercial recreation center if he finds:

- (1) That the premises have been declared a common nuisance by a court of competent jurisdiction.
- (2) That the permittee has consistently failed to operate the center in an orderly manner.
- (3) That the permittee has failed to take prompt and vigorous action to prevent violations of criminal statutes occurring on or about the premises which are known or should have been known to the permittee.
- (4) That circumstances exist which would have justified a denial of such permit at the time of its issuance.
- (5) That the permittee has failed to comply with the provisions of this article. (Ord. of 4-8-75, § 26-20; Ord. No. O-89-289, § 1, 10-24-89)

**Sec. 6-80. Hearing.**

A permittee under this division shall be entitled to a hearing before the city manager before such permit is revoked or suspended. The city manager shall give the permittee five (5) days' notice of his intention to revoke or suspend such permit, along with his grounds for revocation or suspension by certified mail, return receipt requested, or by personal service by an appropriate law enforcement officer. The hearing shall be held not more than twenty (20) days after giving of the notice. (Ord. of 4-8-75, § 26-20)

**Secs. 6-81—6-90. Reserved.****ARTICLE V. BINGO AND RAFFLES**

**Editor's note**—Divisions 1 and 2 of Article V, which included Sections 6-91—6-119, were repealed by Ord. No. O-94-301, 11-22-94, to become effective 1-1-95, were replaced by Sections 6-91.1—6-91.14.

**Sec. 6-91.1. Application of state bingo and raffle laws.**

The provisions of Sections 18.2-340.1 through 18.2-340.14, Article 1.1, Chapter 8, Title 18.2, of the Code of Virginia, 1950, as amended, ("Bingo and Raffles") as now in effect and with such future amendments as may from time to time be made by the General Assembly, are hereby adopted and incorporated by reference and made applicable within the city upon their effective dates subject to the provisions of the Lynchburg City Code as set forth in this article. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6-91.2. Annual permit required; application fee; form of application.**

Prior to the commencement of any bingo game or raffle by an organization, as defined by the state bingo and raffle laws, the organization shall obtain an annual permit from the city attorney, who is designated as the local official for the issuance of permits as provided in Section 18.2-340.2 and 18.2-340.3 of the Code of Virginia, as amended.

The application for the annual permit shall be accompanied by a check in the amount of twenty-five dollars (\$25.00) payable to the city. Application for an annual permit shall be made on a form prescribed by

the state bingo and raffle laws, expanded to include any other information desired by the city attorney. The application shall be a matter of public record. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6- 91.3. Limit on number of organizations for which a person may manage, operate, or conduct bingo games and raffles.**

A person may not manage, operate and/or conduct bingo games and/or raffles for more than two organizations during any annual period. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6- 91.4. Special requirements for issuance of permit; membership; duration of existence.**

(a) Organizations defined by the state bingo and raffle laws shall have a membership consisting of at least fifty percent residents of the Commonwealth and shall furnish a complete list of their membership to the city attorney in order to ascertain the percentage of Virginia residents.

(b) Except for booster clubs, which have been operating for less than five (5) years, and which have been established solely to raise funds for school-sponsored activities in public schools that are less than five (5) years old, organizations shall have been in existence and met on a regular basis in the city or in a county, city or town adjacent to Lynchburg for a period of at least five (5) years immediately prior to applying for a permit. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6- 91.5. Use of percentage of gross receipts.**

As a condition of receiving a permit, the permittee organization shall during each annual period for which a permit is issued use a minimum of five (5) percent of its gross receipts from all bingo games and raffles and no less than ten (10) percent of gross receipts averaged for three (3) consecutive annual periods for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in the real property involving the operation of the organization and used for lawful religious, charitable, community or educational purposes. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6- 91.6. Reports of gross receipts and disbursements.**

Complete records of all receipts and disbursements shall be kept on the forms provided or a reasonable facsimile and shall be filed under oath, as required by the state bingo and raffle laws, with the director of the finance department, who is hereby designated as the local official for the receipt of reports and for audits as provided under the state bingo and raffle laws. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6- 91.7. Audit fee.**

An audit fee of two percentum of the gross receipts which an organization reports pursuant to Section 6-91.6 shall be paid to the City of Lynchburg by the organization filing such reports. For annual gross receipts of \$3,000.00 or less, no audit fee shall be required. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6- 91.8. Guests restricted.**

A qualified organization may conduct bingo and instant bingo games and raffles solely for its members and their guests, but if such organization admits the public to its functions, it must do so without restrictions other than as provided in this article and the state bingo and raffle laws. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6- 91.9. Limitation on number of games per day.**

No building or other premises shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than two calendar days in any one calendar week. No more than one organization



(exclusive or associated organizations such as, but not limited to, auxiliaries) shall conduct bingo games at any one location during any one calendar day. The provisions of this section shall not apply to the playing of bingo pursuant to a special permit. One building or premises owned by the city shall be exempt from the provisions of this section.

For purposes of this article, calendar day shall mean the period of twenty-four consecutive hours commencing at 12:01 a.m. and concluding the following 12:01 a.m. Calendar week shall mean the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at 12:01 a.m. the following Sunday. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6-91.10. Hours of operations.**

No bingo games shall be held and no bingo game shall be permitted in the city between the hours of 12 midnight and 6:00 a.m. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6-91.11. Certificate of use required.**

No place shall be used for a bingo game or raffle unless and until a written request from the sponsoring organization has been made to the city's division of inspections for an inspection thereof and a certificate of use has been issued by the director of community planning and development, or his designee, to the sponsoring organization certifying compliance with all codes and regulations. Such certificate shall be displayed on the premises of which a bingo game or raffle is conducted at all times during the course of such games or raffle. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6-91.12. Records.**

An organization conducting bingo games shall maintain a record in writing for three years of the dates on which bingo was played, the number of people in attendance on each date, and the amount of the receipts and prizes paid on each such day. The organization shall also maintain a record of the names and addresses of each individual to whom a door prize, regular or special bingo game prize or jackpot for the playing of bingo is awarded, as well as the amount of such award. The organization playing bingo shall also maintain an itemized record of all receipts and disbursements; including operating costs and use of proceeds incurred in operating bingo games. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6-91.13. Denial, suspension, revocation of permit.**

The city council may deny, suspend, or revoke the bingo/raffle permit of any organization not found to be in strict compliance with the provisions of this article or the state bingo and raffle laws. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Sec. 6-91.14. Violation.**

A violation of any provision of this article or of the state bingo and raffle laws shall constitute a class 1 misdemeanor. (Ord. No. O-94-301, 11-22-94, eff. 1-1-95)

**Secs. 6-99—6-110. Reserved.**

